

Message Text

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ORIGIN NRC-07

INFO OCT-01 ARA-14 EUR-12 EA-12 NEA-10 ISO-00 PM-05
ACDA-12 CIAE-00 INR-10 IO-14 L-03 NSAE-00 NSC-05
EB-08 OES-07 SOE-02 DODE-00 DOE-15 SS-15 SP-02
CEQ-01 PA-02 ICA-20 /177 R

DRAFTED BY USNRC:JDLAFLEUR
APPROVED BY OES/NET/IM: D B HOYLE
EUR/RPE: W SALISBURY (INFO)
EA/RA: F BENNETT (INFO)
NEA/RA: R PRICKETT (INFO)
ARA/RPP: P OAKLEY (INFO)
L/OES: R SLOAN (INFO)
ACDA: R WILLIAMSON (INFO)
IO/SCT: A JILLSON (INFO)
PM/NPP: A LOCKE (INFO)

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P 032357Z JUL 78
FM SECSTATE WASHDC
TO AMEMBASSY BERN PRIORITY
AMCONSUL BOMBAY PRIORITY
AMEMBASSY BONN PRIORITY
AMEMBASSY BRASILIA PRIORITY
AMEMBASSY BRUSSELS PRIORITY
AMEMBASSY COPENHAGEN PRIORITY
AMEMBASSY HELSINKI PRIORITY
AMEMBASSY LONDON PRIORITY
AMEMBASSY MADRID PRIORITY
AMEMBASSY MANILA PRIORITY
AMEMBASSY MEXICO PRIORITY
AMEMBASSY NEW DELHI PRIORITY
AMEMBASSY PARIS PRIORITY
AMCONSUL RIO DE JANEIRO PRIORITY
AMEMBASSY ROME PRIORITY
AMEMBASSY SEOUL PRIORITY
AMEMBASSY STOCKHOLM PRIORITY
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AMEMBASSY TAIPEI PRIORITY
AMEMBASSY TEHRAN PRIORITY
AMEMBASSY TEL AVIV PRIORITY
AMEMBASSY THE HAGUE PRIORITY
AMEMBASSY TOKYO PRIORITY
AMEMBASSY VIENNA PRIORITY

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USIAEA, USOECD, USEEC

E.O. 11652: N/A

TAGS: TECH

SUBJECT: NUCLEAR REGULATORY COMMISSION ORDERS SUSPENSION OF
CONSTRUCTION PERMITS FOR SEABROOK PLANT

REF: A-0043

1. ADDRESSEE MISSIONS REQUESTED TO PASS THE FOLLOWING TEXT
OF AN NRC NEWS RELEASE TO TECHNICAL NOTIFICATION ADDRESSEES
LISTED IN REPAIR.

2. THE NRC BY DIVIDED VOTE TODAY ORDERED SUSPENSION OF THE
CONSTRUCTION PERMITS FOR THE SEABROOK NUCLEAR POWER PLANT
IN NEW HAMPSHIRE, EFFECTIVE AT 6 P.M. JULY 21, ON GROUNDS
THIS ACTION IS NECESSARY TO PROTECT NRC'S FREEDOM TO
DECIDE ON ALTERNATIVES TO SEABROOK SITE.

3. ALSO BY DIVIDED VOTE, THE COMMISSION NARROWED THE
INQUIRY INTO POSSIBLE ALTERNATIVE SITES. IT RULED THAT
EFFORTS TO COMPARE THE SEABROOK SITE, ASSUMING A ONCE-
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THROUGH COOLING SYSTEM IS USED, WITH SITES IN SOUTHERN NEW
ENGLAND SHOULD BE TERMINATED AND THAT THE COMPARISON OF
SEABROOK WITH OTHER NEW ENGLAND SITES IF COOLING TOWERS
ARE REQUIRED SHOULD BE NARROWED. FURTHER PROCEEDINGS WILL
BE HELD BY THE NRC APPEAL BOARD.

4. THE QUESTIONS BEFORE THE COMMISSION LARGELY STEM FROM
THE EFFECTS OF TWO RECENT DECISIONS: THE ACTION OF THE
COURT OF APPEALS FOR THE FIRST CIRCUIT IN VACATING THE
DECISION BY THE ADMINISTRATOR OF THE ENVIRONMENTAL
PROTECTION AGENCY THAT COOLING TOWERS WERE NOT NECESSARY
AT SEABROOK, AND A DECISION BY THE NRC APPEAL BOARD THAT
INVALIDATED ENVIRONMENTAL COMPARISONS OF THE SEABROOK
SITE USING CLOSED CYCLE COOLING WITH OTHER POTENTIAL
SITES, PERFORMED BY THE NRC LICENSING BOARD LAST YEAR.

5. COMMISSIONERS GILINSKY AND BRADFORD VOTED TO SUSPEND
THE SEABROOK PERMITS. COMMISSIONER KENNEDY DISSENTED
ON SUSPENSION ISSUE. COMMISSIONERS GILINSKY AND KENNEDY
JOINED IN DECISION NARROWING THE REVIEW OF ALTERNATIVES
FROM WHICH COMMISSIONER BRADFORD DISSENTED IN PART.

6. CHAIRMAN JOSEPH HENDRIE DID NOT PARTICIPATE, SINCE
HE WORKED ON SEABROOK CASE AS A STAFF OFFICIAL OF THE
REGULATORY STAFF OF THE ATOMIC ENERGY COMMISSION.

7. TODAY'S DECISION FOLLOWS ORAL ARGUMENT HELD BY THE

COMMISSION IN MANCHESTER, N.H., ON JUNE 26 AND DELIBERATIONS ON THE ISSUES.

8. COMMISSIONERS GILINSKY AND BRADFORD SAID, ". . . WE FACE THE POSSIBILITY THAT CLOSED CYCLE COOLING WILL BE REQUIRED BY EPA. . . SEABROOK WITH CLOSED CYCLE COOLING LACKS NRC SITE APPROVAL. NO SUCH LEGALLY SUFFICIENT ANALYSIS NOW COMPARES SEABROOK WITH COOLING TOWERS TO OTHER POSSIBLE SITES ELSEWHERE IN NEW ENGLAND. . . NOR UNCLASSIFIED

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CAN WE DISMISS THE POSSIBILITY THAT ANOTHER SITE MAY PROVE TO BE ENVIRONMENTALLY 'OBVIOUSLY SUPERIOR' TO SEABROOK WITH COOLING TOWERS, EVEN TAKING INTO ACCOUNT SEABROOK'S ADVANCED STAGE OF CONSTRUCTION. THE APPLICANT ESTIMATES THAT THE COST OF SWITCHING TO COOLING TOWERS AT SEABROOK WOULD BE VERY LARGE AND IN FACT ALMOST AS LARGE AS THE COST OF SWITCHING TO SOME OTHER SITES. . . CONTINUED CONSTRUCTION AT SEABROOK IS INCOMPATIBLE WITH THE CONDUCT OF THE SITE COMPARISON REQUIRED BY NEPA (THE NATIONAL ENVIRONMENTAL POLICY ACT) BETWEEN SEABROOK WITH COOLING TOWERS AND OTHER SITES. . . AT THIS POINT THE ONLY WAY THE AGENCY CAN PRESERVE ITS FREEDOM TO DECIDE IS TO CALL A HALT TO CONSTRUCTION. THIS IS THE CENTRAL ISSUE: PROTECTING OUR OPPORTUNITY FOR A REAL CHOICE AMONG ALTERNATIVES. . ."

9. COMMISSIONERS GILINSKY AND BRADFORD CONSIDERED WHETHER FURTHER SITE COMPARISONS SHOULD NOT BE PURSUED BECAUSE THERE ALREADY HAS BEEN SUBSTANTIAL CONSTRUCTION WORK AT SEABROOK. THEY CONCLUDED, HOWEVER, THAT "DROPPING THE SITE COMPARISON NOW MERELY ON THE BASIS THAT EVENTS HAVE ADVANCED TOO FAR WOULD MEAN THAT NO MATTER WHAT ERRORS ARE COMMITTED, NO MATTER WHAT WARNINGS HAVE BEEN RECEIVED, IF ENOUGH WORK IS DONE ON THE SITE QUICKLY ENOUGH THE FACILITY IS AN ACCOMPLISHED FACT, WHETHER NEPA HAS BEEN COMPLIED WITH OR NOT. THAT IS UNACCEPTABLE."

10. "IN CHOOSING TO HALT CONSTRUCTION WE DO NOT MINIMIZE THE BURDENS THIS IMPOSES ON THE APPLICANT AND THE CONSTRUCTION WORKERS ON SITE. WE FIND THE EFFECT ON THE CONSTRUCTION WORKERS THE FACTOR WEIGHING MOST STRONGLY AGAINST SUSPENSION OF THE PERMITS. WE CAN ONLY SAY THAT THE OPPOSITE COURSE WOULD CAUSE GREATER HARM THROUGH UNCLASSIFIED

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FAILURE TO COMPLY WITH THE LAW AND WOULD RISK THE SAME IMPACT ON THE WORKERS THROUGH A COURT-IMPOSED INJUNCTION IN THE IMMEDIATE FUTURE."

11. IN HIS SEPARATE OPINION, COMMISSIONER KENNEDY SAID HE BELIEVES THAT "THE EQUITIES IN THIS CASE LIE IN FAVOR OF ALLOWING CONSTRUCTION TO CONTINUE." HE SAID THAT THE ENVIRONMENTAL IMPACTS OF PLANNED CONSTRUCTION OVER THE NEXT SEVERAL MONTHS ARE "NOT SIGNIFICANT. . . NO PARTY TO THE PROCEEDING HAS INDICATED THERE WILL BE SIGNIFICANT ADVERSE ENVIRONMENTAL CONSEQUENCES RESULTING FROM CONSTRUCTION ACTIVITIES PLANNED OVER THE NEXT SEVERAL MONTHS."

12. COMMISSIONER KENNEDY SAID THAT THE EFFECTS OF SUSPENSION ON THE APPLICANT AND ITS CUSTOMERS WOULD BE SUBSTANTIAL. AT PRESENT THERE ARE ABOUT 2200 PERSONS ENGAGED IN CONSTRUCTION AT THE SEABROOK SITE. PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE HAS ADVISED THAT IF SUSPENSION WERE ORDERED, APPROXIMATELY 1800 WOULD BE LAID OFF AND PROBABLY HAVE TO LOOK FOR WORK ELSEWHERE.

13. MR. KENNEDY ALSO CITED AS REASONS FOR NOT SUSPENDING THE PERMITS THE VIEW THAT TO A SUBSTANTIAL EXTENT THE TRAVAILS OF THE SEABROOK APPLICANTS ARE THE RESULT OF A BREAKDOWN IN THE REGULATORY PROCESS; AND "THE LIKELIHOOD OF AN ULTIMATE DECISION TO MOVE THE PLANT ELSEWHERE IS NOT HIGH."

14. MR. KENNEDY CONCLUDED "THERE IS NO INFORMATION AVAILABLE TO US WHICH IN ANY WAY INDICATES THAT SEABROOK WILL HAVE TO BE MOVED. IT SERVES NO PURPOSE THEN TO SUSPEND CONSTRUCTION IN LIGHT OF THE LACK OF EVIDENCE OF ANY ALTERNATIVE SITE WHICH MIGHT BE 'OBVIOUSLY SUPERIOR.'"

15. IN HIS PARTIAL DISSENT ON NARROWING THE REVIEW OF UNCLASSIFIED

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ALTERNATIVE SITES, COMMISSIONER BRADFORD SAID THAT ". . . SINCE A REMAND IS NECESSARY IN ANY CASE TO COMPARE SEABROOK WITH TOWERS TO THE EXACT SAME SITES, I WOULD NOT CLOSE OFF THE REVIEW OF SEABROOK WITHOUT TOWERS UNTIL THE 'COMMON SENSE' RESULT HAD SOME HARD SUPPORT IN RECORD EVIDENCE. . . BECAUSE THE ANALYSIS WAS NOT DONE CORRECTLY DURING THE LAST 15 MONTHS AND BECAUSE OF CONSTRUCTION COMPLETED DURING THAT TIME, EVALUATION OF SOUTHERN NEW ENGLAND SITES COMPARED TO SEABROOK WITH OPEN CYCLE COOLING IS AT AN END EVEN THOUGH IT HAS NEVER BEEN DONE. THIS RESULT PROVIDES CONCRETE REBUTTAL TO THOSE WHO DOUBT THAT CONTINUED CONSTRUCTION CHOKES OFF OR PREJUDICES CONSIDERATION OF ALTERNATIVES. . ."

16. MR. BRADFORD ALSO SAID ". . . EVEN THE JOBS FACTOR WEIGHS BOTH WAYS. IF THE NRC SHOWS ITSELF TO BE SO INTENT ON CONTINUING CONSTRUCTION THAT IT WOULD USE PROTECTION OF THE SEABROOK JOBS AS AN EXCUSE TO PROCEED WITH

CONSTRUCTION IN THE FACE OF CLEAR FAILURE TO COMPLY WITH THE RELEVANT LAWS, MANY MORE JOBS THAN ARE AT STAKE AT SEABROOK WILL BE CALLED INTO QUESTION. THE COURTS, THE LEGISLATIVE BODIES, AND THE PUBLIC ARE UNLIKELY TO TOLERATE NUCLEAR EXPANSION UNLESS THE REGULATORS TAKE THE LAWS AND THEIR DUTIES SERIOUSLY. AN APPRAISAL OF THE LONG RUN ECONOMIC AND EMPLOYMENT CONSEQUENCES OF TODAY'S DECISION MUST TAKE THAT FACT INTO CONSIDERABLE ACCOUNT."

17. THE COMMISSION DIRECTED ITS APPEAL BOARD TO SCREEN THE RANGE OF ALTERNATIVES TO SELECT THOSE FEW NEW ENGLAND SITES WHICH APPEAR TO BE THE LEADING CANDIDATES AS ALTERNATIVES TO SEABROOK WITH COOLING TOWERS. "BY MAKING SUCH A PRELIMINARY WINNOWING, THE BOARD AND THE PARTIES UNCLASSIFIED

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WILL BE ABLE TO FOCUS ON THE RELATIVELY FEW ALTERNATIVE SITES WHICH ARE MOST LIKELY TO BE OBVIOUSLY SUPERIOR TO SEABROOK WITH TOWERS.

18. IN DELAYING THE SUSPENSION UNTIL JULY 21, THE COMMISSION SAID THAT THE APPLICANTS AND THEIR EMPLOYEES ARE ENTITLED TO A REASONABLE PERIOD FOR AN ORDERLY TERMINATION OF WORK AT THE PLANT SITE. AFTER THE SUSPENSION IS IN EFFECT, APPLICANTS MAY TAKE ONLY SUCH ACTIONS AS ARE NECESSARY TO PROTECT THE ENVIRONMENTAL INTEGRITY OF THE SITE OR TO PROTECT BUILDINGS, MATERIAL, OR PERSONNEL AT THE SITE. SIGNIFICANT MAJOR COMPONENTS MAY BE DELIVERED TO THE SITE ONLY IF THE APPLICANT CAN DEMONSTRATE TO THE SATISFACTION OF THE APPEAL BOARD THAT "SUBSTANTIAL ECONOMIC PENALTIES" WOULD BE INCURRED IF THEY COULD NOT BE DELIVERED.

19. WHETHER AND WHEN THE SUSPENSION SHOULD BE LIFTED WILL DEPEND UPON SUCH FACTORS AS THE DECISION RENDERED BY THE EPA ADMINISTRATOR AS A RESULT OF THE REMANDED HEARINGS NOW BEING CONDUCTED BY EPA AND THE OUTCOME OR DEVELOPMENT OF THE REMANDED PROCEEDINGS WHICH THE NRC APPEAL BOARD HAS BEEN DIRECTED TO UNDERTAKE. VANCE

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